

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Agricultural Marketing Department – Agricultural Market Committee – Suits – Orders of Hon'ble APAT in OA No.9107/2010 filed by Sri R.Ramakrishna Rao, Selection Grade Secretary ,(Retired), Agricultural Market Committee ,Akiveedu, West Godavari District - Implementation – Orders – Issued.

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AGRICUTURAL MARKETING AND COOPERATIN (AM.II) DEPARTMENT

G.O.RT.No. 492

Dt: 05-09-2014.

Read the following:-

1. The Chairman,AMC,Tiruvuru Letter RC.No.13/A/2002, dt.15.3.2002.
2. Sri R.Ramakrishna Rao, Ex-Spl.Gr.Secy.,AMC,Tiruvuru, letter dt.16.9.2002.6
3. Proceedings No.Unit(20)SSP/19/2002, dt.23.5.2003 of C&DoAM,AP.,Hyd.
4. Sri R.Ramakrishna Rao, Ex-Spl.Gr.Secy.,AMC,Tiruvuru,letter dt.12.8.2003. & dt.1.9.2003
- 5.. Proceedings No. M&E-3/SSP/10./2003, dt. .9.2003 C&DoAM , AP.,Hyd..
6. Representation of Sri R.Ramakrishna Rao, dated 7.7.2004 addressed to JDM,Vijayawada.
7. From JDM, Vijayawada, Lr.No.MA/JDM/1644/2004, dt. 7.7.2004 addressed to C&DoAM,AP.,Hyd.
8. Decree dt.24.8.2004 in O.S.No.75/2004 of the Court of the Senior Civil Judge,Nuzivid. filed by AMC, Tiruvuru against M/s.Reshma Chemicals.
- 9.Proceedings of the C&DoAM, No. Pension-3-2140/2004, dt. 9.5.2005.
- 10..Judgment dt.9.7.2008 in OS No.75/2004 of the Sr.Civil Judge, Nuzivid.
11. Judgment dt. 30.4.2013 in A.S.No.180/2008 of the XIII Additional District Judge, Krishna at Vijayawada. filed by AMC, Tiruvuru.rep.by Sri R.Ramakishna Rao,.
- 12.Hon'ble APAT Judgment, dt.19.3.2013 in OA No.9107/2010.
- 13.From C&DoAM, Lr.No.DS(2)110/2013, dt.20.3.2014.

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ORDER:-

The Commissioner & Director of Agricultural Marketing, AP.,Hyderabad has reported in the reference 14th read above that, Sri R. Ramakrishna Rao, Special Grade Secretary (Retired) while working in the Agricultural Market Committee, Tiruvur has purchased Fertilizers during the year 1998-2000. Later he was transferred to Agricultural Market Committee, Tanuku. The Chairman, Agricultural Market Committee, Tiruvuru requested Sri R. RamaKrishna Rao to sell the unsold Fertilizers worth of Rs.6.29 Lakhs. But, Sri R.Ramakrishna Rao in his letter dt.16.9.2002 has stated that the Fertilizers he purchased were only on the advice of the Assistant Director of Agriculture and Agriculture officer, Tiruvuru and as per the guidelines issued by the District Collector, Krishna and further stated that no proper liquidation methods are in practice with regards to sale of the Fertilizers. He mentioned that some fertilizers were held up in Agricultural Market Committee ,Tiruvuru as he was unable to sell the stock below the purchase value and stock held was in useful condition and there is no expiry date and that he has been frequently contacting the Assistant Director of Agriculture and Agriculture officer for utilization and disposal of the stock. He also assured that the entire stock would be disposed

off during the Kharif and coming Rabi Season, failing which he is ready to bear the loss. He stated further that the Agriculture Market Committee., Nandigama is ready to take some quantity of Chelamin Fertilizers for their sale point at Nandigama and requested the Chairman, AMC., Tiruvuru to permit the Agricultural Market Committee, Nandigama to lift the Chelamin Fertilizers as per their requirement and give time for the disposal of the stock by 31.03.2003.

2. The Commissioner & Director of Agricultural Marketing, reported that, permission was accorded in the matter vide his Proceedings No. Unit (20)SSP/19/2002, dated 23.05.2003 to Sri R.Rama Krishna Rao upto August-2003 to dispose off the unsold stock of fertilizers worth of Rs.5,59,363/- Sri R. RamaKrishna Rao in his letter, dated 12.08.2003 asked M/s Reshma Chemicals Pvt.Ltd., Bhavanipuram to lift the unsold stock of 9 Metric Tonnes. Later, he was transferred from Agricultural Market Committee, Tanuku to Agricultural Market Committee, Akividu. Sri R. RamaKrishna, Sel.Grade Secretary, Akividu, Ex- Secretary, Agricultural Market Committee, Tiruvuru in his letter, dated 01.09.2013 informed that M/s Reshma Chemicals Pvt. Ltd., has not responded and requested the Commissioner & Director of Agricultural Marketing to permit him to take legal action in the Court of Law against the said company. The Commissioner & Director of Agricultural Marketing reported that, in his office Memo. dt. .9.2003 he directed Sri R. RamaKrishna Rao, Selection Grade Secretary., Akividu, Ex- Secretary, Agricultural Market Committee, Tiruvuru to take action as per the rules in force and see that the stocks should be disposed off immediately without further loss. The Agricultural Market Committee, Tiruvuru represented by Sri R.RamaKrishna Rao filed suit O.S.No.75/2004 in the Court of the Senior Civil Judge, Nuzividu against M/s.Reshma Chemicals. The Special Grade Secretary, Agricultural Market Committee, Tiruvuru in his report, dated 25.5.2004 informed that un-disposed stock worth of Rs. 2,19,047/- is left over in the Market Yard and he requested the Joint Director of Marketing to issue directions to Sri R.RamaKrishna Rao for disposal of the material prior to his retirement.

3. The Commissioner & Director of Agricultural Marketing further reported that Sri R. RamaKrishna Rao retired from service on attaining the age of superannuation on 30.6.2004. Sri R. RamaKrishna Rao in his letter dt 7.7.2004 requested the JDM to recover the cost of fertilizers amounting to Rs.2,19,047/- of the Agricultural Market Committee, Tiruvuru after judgment in O.S.No.75/2004 in Reshma Chemicals case and if necessary from his Gratuity amount of Rs.2,29,350/- to which he was eligible as per rules. The same was intimated by the Joint Director of Marketing, Vijayawada through letter dt 7.7.2004 to the Commissioner & Director of Agricultural Marketing,,AP., Hyderabad.

4. The Commissioner & Director of Agricultural Marketing withheld an amount of Rs.2,29,350/- from his gratuity amount till realization of Rs.2,19,047/- to Agriculture Market Committee, Tiruvuru funds towards cost of unsold/ expired fertilizers and sanctioned all his other pensionary benefits.

5. The Senior Civil Judge, Nuzivedu in its Judgment, dt 24.8.2004 in OS No.75/2004 issued directions to the defendant to pay a sum of Rs. 3.06.999/-- with a subsequent interest at 12 % PA. on the Principal sum of Rs.1,99,350/- from the date of suit ie. 18.12.2003 till date of decree and thereafter at 6 % P.A. from the date of decree ie., 24.8.2004 till date of realization and also pay a sum of Rs.11,161/- towards cost of the Suit. M/s Reshma Chemicals Pvt. Ltd. filed I.A.No.1738/2004 in O.S.No.75/2004 in the Court of Senior Civil Judge, Nuzivedu.

6. The Senior Civil Judge, Nuzivid in his Judgment dt. 9.7.2008 in O.S.No.75/2004 observed that the plaintiff (AMC rep. R. RamaKrishna Rao) is not entitled for the Suit claim, because there is every possibility to sell the unsold material from the date of purchase till the filing of the Suit and as per the letter dt. 12.8.2000 , the unsold Zinc was 9 Tonnes, but on the date of filing the Suit, the remaining unsold stock was 8 Tonnes 860 kilos. So, the Plaintiff has sold 140 kilos from the date of the letter dt.12.8.2000 till filing of the Suit. It was also observed that the material is not perishable or destroyable article and the Plaintiff is at liberty to sell the same in any

season. So, in view of the above findings, this issue was answered against the Plaintiff.

7. The Agriculture Market Committee rep. by Sri R. Ramakrishna Rao, filed an appeal on 30.4.2013 against the judgment, dt 9.7.2008 in the Court of Additional District Judge, Krishna dist. The A.S.No.180/2008 was dismissed. without costs due to getting barred by limitation.

8. The Commissioner & Director of Agricultural Marketing has reported that, Sri R.Ramakrishna Rao, Selection Grade Secretary (Retd.) has filed an appeal before the Hon'ble APAT in OA No.9107/2010 regarding withholding of his gratuity .

9. The Hon'ble AP Administrative Tribunal in its Judgment dt.19.3.2013 issued directions as follows:-

“ in the absence of initiating disciplinary proceedings by way of issuing charge memo. the Gratuity of the applicant cannot be withheld. In view of the same, the action of the respondents in withholding the Gratuity amount of Rs.2,19, 047 is illegally, arbitrary and is liable to be set aside and is accordingly set aside. Further, the respondents are directed to release the Gratuity amount of Rs.2,19, 047/- to the applicant along with interest @ 9% P.A. till the amount is realized and paid to the applicant and the said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.”

10. The Commissioner & Director of Agricultural Marketing, AP., Hyderabad requested the Government to issue necessary orders in the matter.

11. The Government have examined the issue in detail . It is noticed that unless guilt is established in a departmental or judicial proceedings, no recovery can be made from the retirement benefits of an employee. Since no charge memo was issued nor any enquiry was conducted before issuing the order in proceedings LDS No.Pension3-2140 /2004 dated 9.3.2005 of the Commissioner & Director of Agricultural Marketing for withholding the gratuity amount of Sri R.Ramakrishna Rao, Retired Selection Grade Secretary , Agricultural Market Committee, Akiveedu, West Godavari Dist, the A.P. Administrative Tribunal set aside the said impugned order and directed the respondents to release the Gratuity amount to the applicant along with interest @ 9% P.A. till the amount is realized and paid to the applicant.

12. With regard to payment of interest on delayed payment of Gratuity @ 9% P.A. granted by the A.P. Administrative Tribunal by exercising its discretionary powers, it may be stated that Rule 46 of the AP Revised pension Rules, 1980 provides that interest is payable on delayed payment of gratuity. The Hon'ble High Court in Chief Executive Officer, Zilla Parishad Vs.Smt.B.Varalakshmi and Ors. reported in 2006 (5) ALT 716 has considered the orders issued in Circular Memo. dt.21.4.1999 & dated 11.8.2005 prescribing the rate of interest on delayed payments of Retirement Gratuity in cases of administrative delay, and held that the aforesaid circular instructions issued by the Government do not have statutory sanction and also disinclined to interfere with the order of the A.P. Administrative Tribunal or the discretion exercised by the Tribunal in granting the respondent applicant therein interest at 12% p.a. for the delayed payment of terminal benefits.

13. Therefore, the Government have decided to implement the orders of Hon'ble A.P. Administrative Tribunal dt.19.3.2013 in OA No. 9107/2010 and accord permission to the Commissioner & Director of Agricultural Marketing, AP., Hyderabad to release the withheld gratuity amount to Sri R.Ramakrishna Rao, Selection Grade Secretary (Retired) along with interest @ 9% P.A. till the amount is realized.

14. This order issues with the concurrence of Finance Department vide their U.O.Note No.0526/172/A1/HRM. VI/14, dt.16.7.2014.

15. The Commissioner & Director of Agricultural Marketing, AP.,Hyderabad shall take further necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RANJEEV R.ACHARYA
PRINCIPAL SECRETARY TO GOVERNMENT (AM&C)(FAC)

To

The Commissioner & Director of Agricultural Marketing, ,AP.,Hyderabad.

The individual through Commissioner & Director of Agricultural Marketing, AP.,Hyderabad

The Government Pleader for Agriculture & Cooperation, AP Administrative Tribunal, Hyderabad – with a request to apprise the same position to the Hon'ble APAT and to ensure that the Contempt case. No.188/2014 in OA No.9107/2014. Is closed.
SC/SF.

//FORWARDED BY ORDER//

SECTION OFFICER